

NAVAJO COUNTY
MINUTES
BOARD OF ADJUSTMENT MEETING
August 7, 2002

Board of Adjustment Members

ATTENDED

1. Bill Arendell, Chairman
2. Carla Bowen
3. Harry Hancock

Staff Attendance

1. Alan Knight, Code Enforcement Officer
2. David Ashton, Director
3. Lance Payette, Deputy County Attorney
4. Mary Bradley, Secretary

ABSENT

Meeting held at the Board of Supervisors' Conference Room, Holbrook, Arizona – Time 10:03 a.m.

Bill Arendell called the meeting of the Navajo County Board of Adjustment to order, and explained the meeting procedures to the public and then led the Pledge of Allegiance.

Item #1: Variance: Discussion and possible board action on a request by **Jack & Sandra Thompson**, for a variance to reduce the side setback from 10' to 2.5', and the rear setback from 20' to 2.5', in order to accommodate a 13' x 15' workshop on an under-sized lot with a 56' x 22' existing mobile home. Location : APN: 206-04-042, T12N, R17E, Section 19, 3322 Rim Lakes Dr. in the Overgaard area. **Alan Knight** gave a case history of the project and presented maps showing the general area and site plan. The stated reason for this request is to reduce the rear setback from 20' to 2.5', and the side setback from 10' to 2.5' in order for the applicant to build a shop. The shop will encroach into the setbacks but will hardly be noticeable in the area. Staff had received two comments in favor and one phone call in opposition. Mr. Knight showed on the map the location of the people who commented in favor and in opposition. Staff recommends approval with stipulations. **Jack and Sandra Thompson** was not in attendance. **There was no public in attendance that came forward to speak in favor or opposition pertaining to this matter.** **Carla Bowen** asked where the hardship was for the variance. Ms. Bowen asked if the two small portable building would be taken off the property. **Alan Knight** said yes, according to what the owner told him. **Carla Bowen** asked why the workshop couldn't be built on the other side (showed on the map the site in consideration). Ms. Bowen said there is 33 feet on the south side, which would seem to her that with the leach lines on the north side, it would be more appropriate to place it on the south side, since there is more room since the sheds will be moved. Ms. Bowen also indicated that the property owners in back are not in favor of the variance. Ms. Bowen asked why Safeway was opposed to this? **Alan Knight** indicated that their concerns are that it is too close to the property line and they want more of a buffer. **Harry Hancock** asked for this item to be Tabled until further information is provided to them from the applicant. **Carla Bowen** seconded the motion. Motion unanimously carried.

Item #2: Variance: Discussion and possible Board action on a request by **Milton DeSpain** for a variance to reduce the setback to the side property line from 10' to 0' in order to accommodate the building of a Veterinary Clinic on a narrow strip of the property. Location: APN: 204-03-008F, T12N, R22E, Section 18, 3154 Bourdon Ranch Rd. in the Love Lake/Taylor area. **Alan Knight** gave a case history of the project and presented maps showing the general area and site plan. The stated reason for this request is to reduce setbacks to the side property line from 30' to 0' in order to build a veterinary clinic on a narrow strip on the property. Mr. Knight also showed on the map where the applicant is planning on placing the parking spaces. The applicant wants to run the road all the way through his property and there is another access road that ends back at Love Lake Road. This access road goes past his property and services a number of properties further down the road. The

reason that the applicant wants to keep the access going all the way through is that when they pull trucks or horse trailers into the property they would not have find another way to turn the vehicle around. Mr. Knight commented that staff had not received any letters in favor or opposition pertaining to this matter. Staff recommends approval with stipulations. **Milton DeSpain** is the applicant and he was not in attendance. **There was no public in attendance that came forward to speak in favor or opposition pertaining to this matter.** Carla Bowen indicated that the plat map that is shown in her book does not show the ingress/egress going all the way through. **Dave Ashton** stated that this map does not show the easements unless it is a road right-a-way. Mr. Ashton explained that the applicant is in the process of getting a Special Use Permit to place this out there since they had a zero setback. Mr. Ashton explained that between the Planning and Zoning Commission and the Board of Supervisors required them to apply for a variance. Mr. Ashton added that he wanted a stipulation stating that the Mr. DeSpain must require written permission to use easement for ingress & egress from the grantors. A motion was made by Carla Bowen to approve the variance with the stipulations stated by staff and to include the additional stipulation stated by Mr. Ashton. **Recommended Stipulations:** *1. Septic system properly permitted & installed prior to construction of building. 2. Building permit acquired prior to construction. 3. Ingress & egress duly addressed in regard to trucks, horse trailers, etc., 4. Mr. DeSpain must acquire written permission to use easements for ingress & egress from the grantors.* Harry Hancock seconded the motion. Motion unanimously carried.

Item #3: Variance: Discussion and possible board action on a request by **Bette Woodward** for a variance to reduce the setbacks to the side property line from 10' to 5' in order to accommodate the building of a 12' x 18' single-car garage, Location: APN: 211-75-213, T8N, R23E, Section 10, 4795 Branding Iron Loop, in the Pinetop Lakes area. **Alan Knight** gave a case history of the project and presented maps showing the general area and site plan. The stated reason for this request is to reduce the setback to the side property line from 10' to 5' in order to enlarge the garage by 12'. Mr. Knight commented that staff had not received any letters in favor or opposition pertaining to this matter. Mr. Knight indicated that they had received approval from the Home Owner Association from their area. Staff recommends approval with a stipulation. **Bette Woodward** is the applicant and she was not in attendance. **There was no public in attendance that came forward to speak in favor or opposition pertaining to this matter.** Carla Bowen indicated that she had mixed emotions about this since the homes in the area are not within 5' of the property lines. Ms. Bowen spoke about the existing garage that is on there now. Bill Arendell indicated that typically a freestanding garage could be within 5' from the property line. A motion was made by Bill Arendell to approve the variance with the stipulation stated by staff. **Recommended Stipulation:** *1. Building permits acquired prior to construction.* Harry Hancock seconded the motion. Motion unanimously carried.

Item #4: Variance: Discussion and possible board action on a request by **Anthony Blockwitz** for a variance to reduce the setbacks to the front property line from 20' to 4' in order to accommodate the building of a residence on exceptional topographic conditions. Location: APN: 211-67-053, T8N, R23E, Section 11, 4234 Skyline Terrace, in the Pinetop C. C. Vista area. **Alan Knight** requested that this item be Tabled contingent upon the applicant's submittal of an approved site plan.

Item #5: Variance: Discussion and possible board action on a request by **Robert Carlson** for a variance to reduce the setbacks to the rear property line from 20' to 6' in order to accommodate the building of temporary living quarters. Location: APN: 211-11-012P, T09N, R23E, Section 9, 9208 Outlaw Lane, in the Misty Mtn. Area of Porter Mtn. Estates. **Alan Knight** gave a case history of the project and presented maps showing the general area and site plan. The stated reason for this request is to reduce the setback to the rear property line from 20' to 6' in order to accommodate the building of temporary living quarters. Mr. Knight indicated that the applicant trailer is attached the existing building and if he takes the trailer out now then he will be homeless. The applicant wants an addition in the back of the building and by doing this addition in the back it will be more economic feasible. In order to do this it would require a 6' rear yard setback. Staff recommends approval with stipulations. Staff had not received any letters in favor or opposition pertaining to this matter. **Robert Carlson** is the applicant and he was in attendance. **Robert Carlson** said if he started all over again then the building would be nothing but a storage shed. If this happened he would not be able to live in it. Mr. Carlson explained and showed on the map what was on the property (waterfall retaining area, spa area and stem wall, etc.). **There was no public in attendance that came forward to speak in favor or opposition pertaining to this matter.** Carla Bowen asked Mr. Carlson if he cleaned up all of his violations that the Board was dealing with the previous year. Ms. Bowen also clarified what Mr. Carlson was requesting for asked Mr. Carlson if he was requesting a permanent variance on his building? **Robert Carlson** replied yes that he has cleaned up his violation and yes that he is requesting a permanent variance for the building not a temporary one. Mr. Carlson indicated that he would like the building that he is working on now be the guesthouse and at a later date he would build a permanent residence. Carla Bowen stated that this would eliminate stipulation number three. Ms. Bowen indicated that it should be stipulated that Mr. Carlson should apply for a use permit prior to the building of a

primary residence, and to allow this residence to remain as a guesthouse. **Alan Knight** indicated that an additional stipulation should also be added that only immediate family members could live on the property (no rentals). A motion was made by **Carla Bowen** to approve the variance with the stipulation stated by staff. Ms. Bowen mentioned that stipulation number three be removed and that the two additional stipulations be included. **Recommended Stipulations: 1. That a building permit be issued prior to construction. 2. That septic system is certified by qualified personnel prior building permit submittal. 3. That Mr. Carlson apply for a use permit prior to building a primary residence, to allow this residence to remain as a guesthouse. 4. That only immediate family members can live on the property – no rentals.** **Harry Hancock** seconded the motion. Motion unanimously carried.

Item #6: Use Permit: Discussion and possible Board action on a request by **Ernest & Deborah Robinson** for a use permit to allow the placement of a guesthouse on the same parcel. Location: APN: 203-68-008A, T14N, R23E, Section 18, 5256 Concho Ocho Rd., in the White Mtn. Ranches area, east of Snowflake. **Alan Knight** gave a case history of the project and presented maps showing the general area and site plan. The stated reason for this request is to allow a second mobile home on the same parcel to house elderly relatives. Mr. Knight stated that he had not received any comments in favor but had received one letter in opposition (Mr. Knight showed on the map the location of the person in opposition). The person who is opposed this and cited their reasons that it would create more traffic. Staff recommends approval since the lot area is so large and that the proposed use would not detract from the general area. Mr. Knight stated that the property couldn't be seen not unless you're right on top of it. **Ernest Robinson** is the applicant and he was in attendance. Mr. Robinson explained that both of his in-laws are in very poor health and they only have one vehicle. Mr. Robinson indicated that he would take care of the property and put in a septic system and a well. Mr. Robinson remarked that before he purchase the property people would dump trash on it, and since he acquired it he has been cleaning it up. Mr. Robinson also assured the Board that the guesthouse would only be used for his in-laws. **There was no public in attendance that came forward to speak in favor or opposition pertaining to this matter.** **Harry Hancock** asked who is responsible for maintaining Concho Ocho Road. **Dave Ashton** replied that Concho Ocho is not a county maintained road. A motion was made by **Carla Bowen** to approve the use permit with the stipulation stated by staff. **Recommended Stipulations: 1. Septic System will be adequate for both residences. 2. Neither residence shall ever be used as a rental. 3. Residents shall keep property free of junk and debris.** **Harry Hancock** seconded the motion. Motion unanimously carried.

Item #7: Variance: Discussion and possible board action on a request by **Russell & Ruth Gilmore** for a variance to reduce the setback to the side property line from 10'; to 0' in order to accommodate the building of a 24' x 20' garage. Location: APN: 206-29-031, T12N, R17E, Section 34, 2749 Airpark Drive in the Mogollon Airpark area of Overgaard. **Alan Knight** explained that this case had been cancelled due to the fact that Mr. Gilmore was unaware until he spoke with Mr. Knight that he had enough room on the south side of the property to build his garage. Mr. Knight stated that the applicant withdrew his request.

Item #8: Use Permit: Discussion and possible Board action on a request by **Gene Davis** for a use permit to allow the construction of a guesthouse on the same parcel. Location: APN: 209-26-044A, T10N, R21E, Section 10, 863 Hog Wash., in the Linden area. **Alan Knight** gave a case history of the project and presented maps showing the general area and site plan. The stated reason for this request is to allow for construction of a guesthouse on the same parcel to house elderly relatives. Mr. Knight explained that Mr. Davis wants to build the guesthouse first (showed on the map where he plans to build the guesthouse) and plans on living in that house while he builds his primary residence. Mr. Knight stated that is why the applicant is applying for the use permit ahead of time. Mr. Davis wants to house elderly relatives and use it temporarily until he builds his main house (showed on the map where he plans to build the main house). Mr. Knight commented that staff had not received any letters in favor or opposition pertaining to this matter. Staff recommends approval with stipulations. **Gene Davis** is the applicant and he was not in attendance. **There was no public in attendance that came forward to speak in favor or opposition pertaining to this matter.** A motion was made by **Carla Bowen** to approve the use permit with the stipulations stated by staff. **Recommended Stipulations: 1. Septic System will be adequate for both residences (Approved by Building Department prior to installation). 2. Neither residence shall ever be used as a rental. 3. All building permits secured prior to construction.** **Harry Hancock** seconded the motion. Motion unanimously carried.

Item #9: Interpretation: Discussion and possible Board action on a request by **Lawrence Gibson** for an interpretation of Section 11-830 of the Arizona Revised Statutes in reference to regulation of agricultural purposes. Location: APN: 207-31-001B, T11N, R16E, Section 20, Black Canyon Ranch in the Heber area. **Alan Knight** gave a case history of the project and presented maps showing the general area. The stated reason for this request is that Mr. Gibson wants an interpretation of A.R.S. 11-830 regarding building permit requirements on agricultural property. Mr. Gibson claims that his land is exempt. Mr. Knight stated that Dave Ashton notified Mr. Gibson by letter (A copy of letter was sent to the Board members in their

packet) the regulation of the use or occupation of land or improvements for grazing or general agricultural purposes, if the tract concerned is five or more contiguous commercial acres. Mr. Ashton stated in the letter that the patented land, which originally included your parcel, was long known as Black Canyon Ranch and was used for grazing and agricultural purposes. Black Canyon Ranch thus was exempt from zoning or building regulation under Section 11-830, and the portion that continues to be used for ranching purposes is still exempt. However, your parcel was split off and appears to be used primarily for residential purposes. The fact that you are still active with Black Canyon Ranch doesn't qualify your parcel or your house as part of the ranching operation. A Building Permit thus is required. A Septic Permit is required under state health regulations and would be required even if your house were exempt from zoning or building regulations under Section 11-830. Mr. Knight indicated that due to the safety interest and the welfare of the family residences a building permit is required because later on there could be liability and the county would be held responsible. **Harry Hancock** commented that situation has been there for a long time and if this could have been grandfathered in. **Alan Knight** stated that the original parcel was recently split (showed on the map the original parcel and then showed the split parcel) were broken down into several parcels. Mr. Knight showed the Board Members on the map the parcels that required a building permit. **Larry Gibson** said that it was his understanding that that piece of property was exempt. Mr. Gibson did acknowledge that the piece of property was split over two years ago. Mr. Gibson indicated that one of our building inspectors advised him that he did not need a building permit since he was building a structure for agricultural purposes. Mr. Gibson commented that was why he thought he did not need one. **Carla Bowen** indicated that it was her understanding when you have a ranching or agricultural as long as you are not changing the use of the property from agricultural and grazing and are not doing anything subdividing or splitting you can exempt yourself. Ms. Bowen's opinion was that what she sees is splitting taking place. Ms. Bowen gave an example (The applicant builds their primary residence and something happens that you will have to leave the area, then you will have to sell the property and you have no building permit, septic tank or certificate of occupancy). Ms. Bowen said that looking at it as a protection standpoint for your investment, it would behoove the applicant to get the necessary permits if in the future they needed to sell the property. Ms. Bowen stated that once you started splitting the property it changed the use of the property. Ms. Bowen commented that on a protection standpoint on yourself and the county is pretty clear on the statutes. Your seven-acre parcel does not agricultural; there is no way that you can do a lot of agricultural on a seven-acre parcel. Ms. Bowen stated that her interpretation is yes you will need a building permit and the inspections made by the county. **Harry Hancock** quotes Section 11-808 in paragraph B which states that it shall be unlawful to erect, construct, reconstruct, alter or use any building or other structure within a zoning district covered by the (zoning) ordinance without first obtaining a building permit from the inspector and for that purpose the applicant shall provide the zoning inspector with a sketch of the proposed construction containing sufficient information for the enforcement of the zoning ordinance. Mr. Hancock told Mr. Gibson that he is only asking the Board for their interpretation. Mr. Hancock advised Mr. Gibson that he needs to sit down with an attorney and read these regulations. **Lance Payette** stated that the grandfathered concept only applies to a specific use that you established before the zoning ordinance goes into effect. Mr. Payette gave an example (If this was zoned for cattle ranching since 1950 that use would be grandfathered in). Mr. Payette went on to say that the concept of grandfathering does not have anything to do with a particular situation. Mr. Payette commented on the intent of the statute. The statute was adopted at the request of mining and agricultural interests that were in railroad interest that very important to the city. The intent of the statute is that you don't hinder agricultural and mining in railroad operations. In some cities and towns interpret the statute in a way that even if you do have an agricultural operation the only thing that doesn't require a building permit or zoning setbacks are agricultural improvements. If you want to put a house on then you still are required to get a building permit. Mr. Payette said that it is the use of the land. Mr. Payette gave an example (If he had 10 acres in Prescott and it was residential property and his house was located on it and then put up a barn then he would need a building permit). The fact that it is an agricultural property it is still on a residential property it will be used for residential purposes. The Assessor's asked you if you wanted it classified as agricultural you would have to show that it economically viable as a agricultural use. Mr. Payette emphasized the use rather than the structure. **Bill Arendell** agreed with Carla Bowen that a permit should be acquired. A motion was made by **Carla Bowen** that the interpretation of the Board of Adjustment is that the property would need to have a building permit to conform to the county ordinances for any residences built on the property. **Bill Arendell** seconded the motion. Motion carried with **Harry Hancock** stating that he did not understand the situation.

Item #10: Possible approval of the minutes for the **June 12, 2002** meeting. **Carla Bowen** made a motion to approve the minutes. **Harry Hancock** seconded the motion. Motion unanimously carried.

Item #5: Board Members comments and/or directions to staff. Board Members may use this time to offer additional comments regarding any item on this agenda or any other topic, and the Board may direct Development Services Department staff to study or provide additional information on topics of the Boards choosing.

With there being no further business to come before the Board of Adjustment, the meeting was adjourned at 11:17 a.m. **Harry Hancock** made a motion to adjourn. **Bill Arendell** seconded the motion. Motion unanimously carried.

The Board reserves the right to adjourn into an executive session when needed, per A.R. S. 38-431.03 (A)(3) for legal counsel on the above matter.

NOTE: A copy of the agenda background material provided to the Board Members (with exception of material relating to possible executive sessions) is available for public inspection at the Development Services Office, Navajo county Complex, Holbrook, Arizona, and Monday through Friday, 8:00 a.m. to 5:00 p.m.

Signed this _____ day of _____, _____

Signed: _____

**Chairman, Navajo County
Board of Adjustment**

ATTEST:

Development Services Secretary